

Regular Session, 2009

HOUSE BILL NO. 232

BY REPRESENTATIVES SMILEY, DOVE, ST. GERMAIN, AND MONICA AND
SENATORS KOSTELKA, DUPRE, AND MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BOATS/SHIPS/VESSELS: Applies postaccident drug testing requirements to accidents
involving watercraft

1 AN ACT

2 To amend and reenact R.S. 32:681(A), (B), and (C), relative to postaccident drug testing; to
3 provide for certain testing for operators of watercraft; and to provide for related
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 32:681(A), (B), and (C) are hereby amended and reenacted to read
7 as follows:

8 §681. Postaccident drug testing; accidents involving fatalities, required

9 A. The operator of any motor vehicle which is involved in a collision or the
10 operator of any watercraft involved in a collision, crash, or other casualty in which
11 a fatality occurs shall be deemed to have given consent to, and shall be administered,
12 a chemical test or tests of his blood, urine, or other bodily substance for the purpose
13 of determining the presence of any abused substance or controlled dangerous
14 substance as set forth in R.S. 40:964 or any other impairing substance.

15 B. The test or tests shall be administered at the direction of a law
16 enforcement officer having reasonable grounds to believe the person to have been
17 driving or in actual physical control of a motor vehicle upon the public highways of
18 this state which is involved in a collision or to have been operating or in physical
19 control of a watercraft on the waterways of this state involved in a collision, crash,

1 or other casualty in which a fatality occurs. The law enforcement agency by which
 2 such officer is employed shall designate in writing under what conditions the tests
 3 shall be administered.

4 C. In the case of all traffic or boating fatalities, the coroner, or his designee,
 5 shall perform or cause to be performed a toxicology screen on the victim or victims
 6 of all traffic fatalities for determining evidence of the presence of any abused
 7 substance or controlled dangerous substance as set forth in R.S. 40:964 or any other
 8 impairing substance which shall include the extracting of all bodily substance
 9 samples necessary for such toxicology screen. The coroner, or his designee, shall be
 10 responsible for ensuring the body is not removed from his custody until such time
 11 as the bodily substance samples are extracted. The coroner's report shall be made
 12 available to the investigating law enforcement agency and may be admissible in any
 13 court of competent jurisdiction as evidence of the presence of any abused substance
 14 or controlled dangerous substance as set forth in R.S. 40:964 or any other impairing
 15 substance at the time of the fatality. Nothing herein shall be construed to limit the
 16 authority of the investigating law enforcement agency from conducting an
 17 investigation of the accident scene concurrently with the coroner or his designee.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Smiley

HB No. 232

Abstract: Expands postaccident drug testing for operators involved in an accident resulting in a fatality to fatal watercraft accidents.

Present law requires postaccident drug testing of the operator of any motor vehicle which is involved in a collision that results in a fatality. Provides that such person shall be deemed to have given consent to a chemical test or tests of his blood, urine, or other bodily substance for the purpose of determining the presence of any abused substance or controlled dangerous substance or any other "impairing substance".

Proposed law retains present law and includes the operator of any watercraft involved in a collision, crash, or other casualty that results in a fatality.

Present law requires that the test or tests be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle which is involved in a fatal collision. Requires the law enforcement agency by which such officer is employed to designate in writing under what conditions which of the tests are to be administered.

Proposed law retains present law and includes instances where the person is operating or in actual physical control of a watercraft on the waterways of this state.

Present law requires, in the case of all traffic fatalities, the coroner to perform or cause to be performed a toxicology screen on the victim or victims of all traffic fatalities for determining evidence of the presence of any abused substance or controlled dangerous substance or any other "impairing substance", which includes the extracting of all bodily substance samples necessary for such toxicology screen. Requires that the coroner's report be made available to the investigating law enforcement agency and be admissible in court as evidence of the presence of such substances at the time of the fatality. Provides that such testing does not limit the authority of the investigating law enforcement agency from conducting an investigation of the accident scene concurrently with the coroner.

Proposed law retains present law and includes instances of boating fatalities.

(Amends R.S. 32:681(A), (B), and (C))